IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 9644 of 2003

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Between:

1. M/s. Vinayaka Constructions, rep. By its Managing Partner, R. Rameshwar Reddy, S/o. late Sri M. Bhooma Reddy, Occ: Business, R/o. Deshmukh Colony, Bagh Amberpet, Hyderabad.

2. M. Rameshwar Reddy, S/o. late Sri M. Bhooma Reddy, Occ: Business, R/o. Deshmukh Colony,
Bagh Amberpet, Hyderabad.

3. B. Rama Krishna Reddy, S/o. Venkat Reddy,

Occ: Business, R/o. 3-6-223, Himayatnagar, Hyderabad.

4. Smt. T. Padmini Devi, W/o. late Sri T. Vasudeva Reddy, R/o.1-1-774/A, Gandhi Nagar, Hyderabad.

5. Smt. M. Srilakshmi, W/o. M. Raghava Reddy,

R/o. Kundanbagh Apartments, Begumpet, Hyderabad.

6. G. Sarath Kumar Reddy, S/o. G. Jagpal Reddy,

R/o. 16-2-147/64/6, Anand Nagar Colony, Malakpet, Hyderabad.

7. C. Anji Reddy, S/o. late C. Ram Reddy,

R/o. 61/2RT, Vijayanagar Colony,Hyderabad.

..... PETITIONERS

AND

1. Government of Andhra Pradesh, rep. By its Principal Secretary, Revenue, Secretariat, Hyderabad.

2. District Collector, Hyderabad District, Hyderabad.

3. Municipal Corporation of Hyderabad, rep. By its Commissioner, CC Buildings, Tankbund, Hyderabad.

4. Station House Officer, Banjara Hills Police Station, Hyderabad.

5. B. Sharada Devi, w/o. late Sri B. Ganga Reddy,

R/o. Himayatnagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of Mandamus, declaring the action of the Respondents, especially Respondent No.4 in interfering with the peaceful possession and enjoyment of first petitioner's property admeasuring 2290 Sq. yds. And 8000 Sq. yds belonging to the other petitioners out of Ac.6.24 guntas in Survey No.129/48, Ward No.8, Block "K", Road No.12, Banjara Hills, Hyderabad, as illegal, arbitrary and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondents not to dispossess the first petitioner in respect of property admeasuring 2290 sq. yds. And 8000 sq. yds. Belonging to the other petitioners, out of Ac.6.24 guntas in Survey No.129/48, Ward No.8, Block "K", Road No.12, Banjara Hills, Hyderabad.

Counsel for the Petitioners: MR.P.VENUGOPAL

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following :

ORDER:

The fifth respondent is alleged to have purchased the land to an extent of Acs.2.21 in Sy.No.129/31 of Seikpet village, Banjara Hills, Hyderabad, under a registered sale deed and after coming to know that the land in Sy.No.129/31 nowhere exists since it was alienated, tried to interfere with the property in Sy.No.129/48 possessed by the petitioners. In view of the same, a batch of writ petitions, being W.P.No.25418 of 1995 and batch were filed before this court by the owners of the property in Sy.No.129/48. The said writ petitions were allowed by this court by order dated 18-2-2003 setting aside the orders that have been procured by the 5th respondent herein. On a reading of the said judgment it is clear that the Mandal Revenue Officer also seized of the matter with regard to proper demarcation of both the survey numbers. Alleging that at the instance of the fifth respondent, the fourth respondent is interfering with the peaceful possession and enjoyment of the petitioners' property, the present writ petition is filed.

A counter affidavit has been filed by the fourth respondent denying all the allegations that the fifth respondent influenced him by putting pressure through the third respondent and is trying to disturb the peaceful possession and enjoyment of

the petitioners' property, and equally, a battalion of police tried to dispossess the petitioners on 17-5-2003. All those allegations were made only for the purpose of the present writ petition. He contends that to maintain law and order in the area a case in Cr.No.781 of 2002, under Section 145 Cr.P.C. has been registered on 30-11-2002 on his file against the parties including the petitioners 2 & 7 and the 5th respondent herein and a report was laid before the Special Executive Magistrate (Revenue Divisional Officer) Court, Hyderabad for taking necessary action and the same is pending before the Revenue Divisional Officer.

Second respondent filed a counter affidavit stating that the land in Sy.No.129/48 has been declared as surplus land by the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad in his proceedings dated 27-8-2001 and a letter was addressed to the MCH and Police authorities informing in respect of T.S.No.2&3 Block-K the name of the fifth respondent is entered and they correlate to the survey numbers in 129/31 and 129/48 and the second respondent is no way concerned with the interference made by the fifth respondent with the possession of the petitioner.

The Apex Court in Mohan Pandey vs. Usha Rani Rajgaria held as under:

> "There is no doubt that the dispute is between two private persons with respect to an immoveable property. Further, a suit covering either directly a portion of the house-property which is in dispute in the present case, or in any event some other parts of the same property, is already pending in the civil Court. The respondent justifies the step of her moving the High Court with a writ petition on the ground of some complaint made by the appellants and the action by the police taken thereon. We do not agree that on account of this development, the respondent was entitled to maintain a writ petition before the High Court. It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged. And in such a case, the Court will issue appropriate direction to the authority concerned. If the real grievance of the respondent is against the initiation of criminal proceedings, and the orders passed and steps taken thereon, she must avail of the remedy under the general law including the Criminal Procedure Code. The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly."

In view of the same, proper remedy for the petitioners, if any, is to move the competent civil Court for appropriate relief, but, in this writ petition no relief can be

granted to the petitioners.

Accordingly, the Writ Petition is dismissed. No costs.

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A. Gopal Reddy, J.

2nd November, 2004.

Js.

ASSISTANT REGISTRAR

To

1. The Principal Secretary, Government of Andhra Pradesh, Revenue, Secretariat, Hyderabad.

2. The District Collector, Hyderabad District, Hyderabad.

3. The Commissioner, Municipal Corporation of Hyderabad, CC Buildings, Tankbund, Hyderabad.

4. The Station House Officer, Banjara Hills Police Station, Hyderabad.

5. Two CCs to G.P. for Home, High Court of A.P. Buildings, Hyderabad (OUT)

6. Two CD Copies